



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

October 24, 2007

Alan R. Batcheller
Director
Remediation Division
Texas Commission on Environmental Quality
MC 225
P.O. Box 13087
Austin, Texas 78711-3087

Dear Mr. Batcheller:

As a point of clarification to your September 14, 2007, letter to Detrex regarding their Municipal Setting Designation (MSD) Application No. 044, it is our expectation that a MSD would not be used to modify or alter the requirements of any RCRA permitted facility. The Region was generally supportive of the legislation which would expedite brownfield cleanups in an environmentally protective manner. This would include certain ground water being designated as non-potable drinking water; thereby limiting the extent cleanup would be necessary when the pathway of exposure is effectively eliminated, especially to promote brownfield property redevelopment where an innocent land owner is trying to redevelop an area.

The Region never envisioned or intended that a MSD, in the present form, would be used at facilities subject to the State's federally authorized/approved programs i.e., RCRA and Underground Storage Tanks (UST). These facilities are subject to federal program requirements to investigate and cleanup and, where waste is left in place, to long term monitoring. In addition, each of these programs requires that facilities have monies set aside for closure, investigation, cleanup and monitoring. In fact, because of the broad language in the MSD legislation stating the executive director **shall not require** the investigation or remediation of groundwater at a site covered by a MSD, see Sec. 361.800, the Region requested language be added to the bill stating the "Nothing in this subchapter is meant to alter or supersede any requirement of a federally authorized environmental program..." Sec. 361.808.

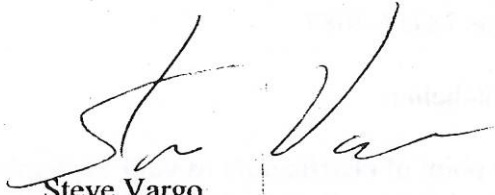
The MSD legislation has the potential to impact some of Texas' federally authorized/approved programs, particularly RCRA and UST. If the designation of an MSD results in facilities not being required to investigate and remediate releases as defined by their respective programs, EPA may have to act and there could be an adverse impact on the status of program authorization/approval.

If you have any questions, please feel free to contact me on RCRA issues at (214) 665-6647, or contact Steve on UST issues at (214) 665-2730.

Sincerely,



Troy C. Hill, P.E.
Associate Director for RCRA
EPA Region 6



Steve Vargo
Associate Director for PTU
EPA Region 6

cc: Jacqueline S. Hardee, P.E.
Director, Waste Permits Division
Texas Commission on
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MC126